

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

2014 MAY 22 P 3:55

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SO. DIST. OF GA.

GEORGIA POWER COMPANY;)
OGLETHORPE POWER)
CORPORATION; MUNICIPAL)
ELECTRIC AUTHORITY OF GEORGIA;)
and the CITY OF DALTON, GEORGIA,)
)
Plaintiffs/Counterclaim Defendants,)
v.) Case No.1:12-cv-00167-JRH-JEG
)
WESTINGHOUSE ELECTRIC)
COMPANY, LLC and STONE &)
WEBSTER, INC.,)
)
Defendants/Counterclaim Plaintiffs.)

PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL

Plaintiffs Georgia Power Company, Oglethorpe Power Corporation, Municipal Electrical Authority of Georgia, and the City of Dalton, Georgia respectfully request that this Court grant Plaintiffs' Motion for Leave to File Under Seal. Specifically, the Plaintiffs seek leave to file their Motion to Compel Disclosure of Documents Identified in Defendant Stone & Webster's May 8, 2014 Recall Notice and Petition for In-Camera Review, Brief in Support of Plaintiffs' Motion to Compel Disclosure of Documents Identified in Defendant Stone & Webster's May 8, 2014 Recall Notice and Petition for In-Camera Review, and related exhibits under seal on the basis of the following:

1. Under this Court's Order Pursuant to Federal Rule of Evidence 502 Concerning Disclosure of Information Protected by the Attorney-Client Privilege or Work Product Rule ("Rule 502 Order"; Doc. 97, dated April 2, 2014), a receiving party that contests the producing party's claim of privilege or work product must file a motion compelling disclosure of the

documents in question within ten business days of receipt of the recall notice. (Rule 502 Order ¶ 5.) The 502 Order requires that all motions regarding privileged or other protected information must be accompanied by a request to the Court to seal the motion and any exhibits filed therewith. (*See id.*)

2. In a letter dated May 8, 2014, Defendant Stone & Webster, Inc. ("Stone & Webster") attempted to recall two documents that it had produced to the Plaintiffs, contending that these documents were protected under the work product, common interest, or joint defense privileges and, therefore, fell within the purview of the Rule 502 Order. (*See Letter from S. Ewald to J. Finley, May 8, 2014* (attached as Exhibit C to the Brief in Support of Plaintiffs' Motion to Compel Disclosure of the Documents Identified in Defendant Stone & Webster's May 8, 2014 Recall Notice and Petition for In-Camera Review).)

3. The Plaintiffs disagree with Stone & Webster's contentions and, as mandated by the Rule 502 Order, have filed the requisite motion to compel disclosure of these documents.

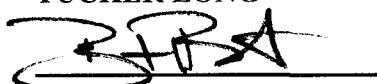
4. Plaintiffs' Motion to Compel Disclosure of Documents Identified in Defendant Stone & Webster's May 8, 2014 Recall Notice and Petition for In-Camera Review, Brief in Support of Plaintiffs' Motion to Compel Disclosure of the Documents Identified in Defendant Stone & Webster's May 8, 2014 Recall Notice and Petition for In-Camera Review concern and reflect information that Stone & Webster contends falls within the scope of the Rule 502 Order based on a claim of work product, common interest, or joint defense privilege. (*See, e.g.*, Letter from S. Ewald to J. Finley, May 8, 2014, referenced in ¶ 2, above.)

5. Although the Plaintiffs dispute Stone & Webster's contention that the documents at issue are privileged, the Plaintiffs respectfully ask this Court to grant leave for the Plaintiffs to file these materials under seal as required by Para. 5 of the Rule 502 Order ¶ 5.

6. Pursuant to the Rule 502 Order, and in accordance with Local Rule 79.7(d) & (e), the Plaintiffs state that this request for leave to file under seal is narrowly tailored to comply with the requirements of the Rule 502 Order entered by this Court. The Plaintiffs request that their Motion to Compel Disclosure of Documents Identified in Defendant Stone & Webster's May 8, 2014 Recall Notice and Petition for In-Camera Review, Brief in Support of Plaintiffs' Motion to Compel Disclosure of the Documents Identified in Defendant Stone & Webster's May 8, 2014 Recall Notice and Petition for In-Camera Review, and the exhibits attached thereto remain sealed through this Court's resolution of the issues presented therein.

Dated: May 22, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

In accordance with Fed. R. Civ. P. and S.D. Ga. LR 5.1, I hereby certify that I manually filed the foregoing Motion for Leave to File under Seal with the Clerk of Court and have mailed notifications and copies to all attorneys of record.

This 22nd day of May, 2014.

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